

**CITY OF NEWPORT BEACH
CITY COUNCIL FINANCE COMMITTEE
OCTOBER 15, 2013 MEETING MINUTES**

1. CALL TO ORDER

The meeting was called to order at 1:45 p.m. in the Newport Coast Conference Room, Bay 2E, 100 Civic Center Drive, Newport Beach, California 92660.

2. ROLL CALL

Present: Council Member Mike Henn (Chair), Mayor Keith Curry and Council Member Tony Petros

Staff present: City Manager Dave Kiff, Finance Director Dan Matusiewicz, Deputy Finance Director Steve Montano, City Attorney Aaron Harp and Budget Manager Susan Giangrande

Members of the public: Jim Mosher; Nicole Shine, OC Register; Robert Hawkins

3. PUBLIC COMMENTS

Mr. Jim Mosher stated his belief that all three members of the Finance Committee are good and honorable men doing their best to serve the city. Two scheduled meetings on August 29th and on September 23rd were both cancelled. When meetings are skipped with increasing frequency, it would lead a reasonable person to assume that the Finance Committee's work is being neglected or done in a non-public way.

Council Member Henn asserted that Mr. Mosher is a good and honorable man, yet his concerns are misplaced. Mr. Henn said that as Finance Committee Chair he has continued the tradition to set agendas with standard items; however the Committee's work plan is subject to adjustment based on facts and circumstances. He requested input from others including staff regarding any issues that have not been addressed by the Committee.

City Attorney Harp cautioned against a lengthy discussion on this item as it was not on the agenda.

City Manager Kiff said that a couple of things have recently gotten in the way of the Finance Committee agenda including the need for staff to focus on a detailed PERS audit and the initial meetings regarding the implementation of a new Enterprise Resources Program (ERP).

Finance Director Matusiewicz agreed that the work plan is a plan and that some unanticipated things, including the two weeks of ERP meetings in August, did

require some leniency with the agenda, but that staff will resume work plan items in November.

Mayor Curry said that Mr. Henn has done a superlative job managing the Finance Committee and the City's finances have never been stronger.

4. APPROVAL OF MINUTES

Council Member Henn said he had no problem with the three minor changes to the draft minutes that Mr. Mosher submitted. Mayor Curry moved, Council Member Petros seconded to approve the minutes of the July 22, 2013, Finance Committee meeting with corrections. The Committee voted all ayes to approve the minutes.

5. CURRENT BUSINESS

A. Response to Ralph M. Brown Act Allegations Pursuant to California Government Code Section 54960.2(C)(1).

Council Member Henn requested input from the City Attorney.

City Attorney Harp reported that on September 17, 2013, Mr. Mosher submitted correspondence alleging a Brown Act violation based on an article in the newspaper executed by Mayor Curry and Council Member Henn. He noted the article regarding outsourcing trash pickup was written in their capacities as Council members. Mr. Harp stated that his office reviewed the allegation and determined this was not a violation of the Brown Act because Mayor Curry and Council Member Henn were not acting in their capacity as Finance Committee members; however in order to avoid litigation, Mr. Harp recommended execution of the proposed letter by the Finance Committee Chair that indicates that the Finance Committee, on a go forward basis, would not write joint articles for a newspaper.

Council Member Henn stated that he had no problem with the letter.

Mayor Curry commented that it was a waste of taxpayer money to respond to this. He noted the Brown Act is to avoid secret meetings among the City Council. He further stated that the letter was submitted to the newspaper after the item had been discussed in the public forum.

Council Member Petros agreed with Mayor Curry's comments.

Mr. Mosher said that if nothing else, it is his hope that this agenda item would answer the question, "Does this committee allow members to discuss the City's financial affairs outside of publicly noticed meetings?" He had four additional comments: 1) if elected and appointed officials followed the rules, there would be no need to raise these concerns, 2) he doesn't raise all the concerns that

come to mind, and hopes he would be shown respect for his restraint, 3) his phone number and email address were provided in his complaint letter so if staff felt his comments were frivolous they could have informed him, and 4) by issuing the proposed response letter which does not remotely respond to the issues as required by State law, the Committee is daring him to litigate and he questioned if that is a good use of taxpayer money.

Mr. Hawkins announced that he is an attorney, but was speaking as a resident, and does not represent Mr. Mosher. He feels that Mayor Curry has taken the opportunity to abuse Mr. Mosher in an unacceptable fashion. Brown Act violations extend further than the Finance Committee. In his view it was a problem at the September 10, 2013, Council meeting for the Mayor to point to a collective bargaining agreement that was not reported on until the entire hearing had been concluded, instead of after Closed Session. He urged the Finance Committee members not to write an editorial prior to hearing an issue as citizens are entitled to full and fair hearings.

Mayor Curry moved, Council Member Petros seconded approval of the proposed letter as drafted. Council Member Henn asked if the proposed letter was ok to sign given Mr. Mosher's statements that the response was insufficient. City Attorney Harp said in his legal judgment the proposed letter adequately addresses Mr. Mosher's concerns and satisfies the commitment required by the Brown Act. The Committee voted all ayes to approve the proposed letter.

6. FINANCE COMMITTEE ANNOUNCEMENTS OR MATTERS WHICH MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM)

There were no announcements or matters placed on a future agenda.

7. ADJOURNMENT

The Finance Committee adjourned at 2:04 p.m.

Filed with these minutes are copies of all material distributed at the meeting.

Attest:



Mike Henn, Chair
Finance Committee Chair

Date